

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BENEFICIAL INNOVATIONS, INC.,

Plaintiff,

v.

COMCAST CORPORATION, a Delaware corporation; THE DALLAS MORNING NEWS, INC., a Delaware corporation; DIGG, INC., a Delaware corporation; DISNEY ONLINE, a California corporation; THE WALT DISNEY COMPANY; a Delaware corporation; EBAUM'S WORLD, INC., a New York corporation; FACEBOOK, INC., a Delaware corporation; GOOGLE INC., a Delaware corporation; IAC SEARCH & MEDIA, INC., a Delaware corporation; MORRIS COMMUNICATIONS COMPANY, LLC, a Georgia limited liability company; NBC UNIVERSAL, INC., a Delaware corporation; THE NEW YORK TIMES COMPANY, a New York corporation; and YOUTUBE, LLC, a Delaware limited liability company,

Defendants.

CASE NO. 2:09-CV-175-TJW

TRIAL BY JURY DEMANDED

**DEFENDANT THE WALT DISNEY COMPANY'S UNOPPOSED MOTION FOR
DISMISSAL WITHOUT PREJUDICE**

Defendant, The Walt Disney Company, moves the Court to dismiss The Walt Disney Company from this action without prejudice.

Plaintiff, Beneficial Innovations, Inc. (Beneficial Innovations), named The Walt Disney Company as a defendant in this case for infringing U.S. Patent No. 7,496,943 by operating www.go.com, www.espn.com and www.abc.com. The Walt Disney Company, however, has represented to Beneficial Innovations that it is a holding company and is not

engaged in any of the activities alleged in the complaint and therefore was named incorrectly in this suit. In addition, The Walt Disney Company has represented to Beneficial Innovations that it is incorporated in Delaware and is not authorized to, and does not, conduct business outside of Delaware, California or New York. Thus, counsel for The Walt Disney Company asked Beneficial Innovations to dismiss The Walt Disney Company from this action without prejudice. Without admitting any of The Walt Disney Company's representations, Plaintiff, Beneficial Innovations, has agreed to The Walt Disney Company's request.

Accordingly, The Walt Disney Company requests that the Court dismiss The Walt Disney Company from this action without prejudice. A proposed order granting the dismissal is attached for the Court's convenience.

Respectfully submitted,

/s/ J. Thad Heartfield

J. Thad Heartfield

Texas Bar No. 09346800

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CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 4th day of December, 2009. Any other counsel of record will be served by first class mail.

/s/ J. Thad Heartfield
J. Thad Heartfield